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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

MIGUEL ANGEL CAMACHO, JR.,

Defendant and Appellant.

E070021

(Super.Ct.No. BAF1700739)

OPINION

APPEAL from the Superior Court of Riverside County. Mark E. Johnson and Randall Donald White, Judges. (Judge White is a retired judge of the Riverside Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.)* Affirmed.

Jeffrey S. Kross, under appointment by the Court of Appeal, for Defendant and Appellant.

* Judge Johnson presided over and ruled on the suppression motion. Judge White presided over the trial and sentencing hearing.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, and Melissa Mandel and Stephanie H. Chow, Deputy Attorneys General, for Plaintiff and Respondent.

I. INTRODUCTION

Defendant and appellant, Miguel Angel Camacho, Jr., was charged with one count of assault with a deadly weapon (a baseball bat) (Pen. Code, § 245 subd. (a)(1)),¹ tried by a jury, and convicted. That same day in a bifurcated court trial, the court found that defendant had a prior prison term conviction. (§ 667.5, subd. (b).) Defendant was sentenced to four years in state prison and appealed.

On appeal, defendant argues the court erred in denying defendant's motion to suppress evidence pursuant to section 1538.5. We affirm the judgment.

II. FACTUAL AND PROCEDURAL BACKGROUND

Prior to trial, defendant brought a motion to suppress evidence obtained during a search of his mobilehome trailer. Defendant sought to suppress digital photographs from inside the trailer, a gray metal baseball bat allegedly booked into evidence, all observations of any police officer from inside the trailer, and any other evidence obtained from inside the trailer. Defendant sought suppression on the basis that the police officer did not have a warrant to search the trailer and there was no proper basis for a warrantless search.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

At the suppression hearing, the prosecution called the only witness, Officer Luis Reyes.² Officer Reyes testified that he responded to a trailer at a mobilehome park in Hemet, California on July 3, 2017, to investigate an alleged assault on Jose M. When he arrived, he spoke to Jose M. and defendant's mother, Angelica G.³ Angelica G. informed Officer Reyes that she was the owner of the trailer and rented it to defendant. Both Jose M. and Angelica G. told Officer Reyes that they had agreed that Jose M. would move into the trailer. According to Jose M., his girlfriend began moving some of his property into the trailer a few days prior to the planned move. Shortly after that, Jose M. and defendant had a falling out and defendant no longer wanted Jose M. to move in. Angelica G. explained that defendant refused to allow Jose M. to retrieve his property, and that she had intended to call the police about it. Jose M. said he was at the trailer to retrieve the property he had inside. Jose M. told Officer Reyes that defendant assaulted him with a baseball bat, and described the bat.

When Officer Reyes requested Jose M.'s address, Jose M. gave him an address in San Jacinto, California. Jose M. did not have a copy of a lease, rental agreement, or "[a]ny proof, at all, that he was going to move into" the trailer. However, Jose M. did say he had receipts for the property in the trailer.

² At trial, Officer Reyes spelled his name "Luis." At the suppression motion hearing he spelled it "Ruis."

³ Though defendant's mother was not identified by name at the hearing on the motion to suppress, she testified at trial that her name is Angelica G.

Officer Reyes arrested defendant and put him in a patrol unit. Officer Reyes then escorted Jose M. into the trailer to retrieve his property. Officer Reyes stated that his basis for entering the trailer was to protect Jose M. in case there were any further threats to his safety. While inside the trailer, Officer Reyes saw a baseball bat similar to the one Jose M. described.

After the hearing, the trial court heard argument from both counsel. The prosecutor argued that Officer Reyes could have reasonably concluded Jose M. had authority to consent to search the trailer given both his and Angelica G.'s statements that he intended to move into the trailer and had property inside the trailer. Defense counsel argued that Officer Reyes could not have reasonably concluded Jose M. had authority to consent to a search because Jose M. admitted he did not live in the trailer, had no intention of living there, and showed no proof that he owned the property he claimed he was there to retrieve.

The court denied the motion. The court found that Jose M. had both actual and apparent authority to consent to a search of the trailer. As the trial court explained, "the owner says [Jose M.] has a rental agreement. . . . If you want to get your things out of there within the terms of that rental agreement, I think he had the authority." The court concluded: "I think this falls under the exception [of] consent to the Fourth Amendment . . . warrant requirement."

At trial the prosecution entered a picture of the baseball bat into evidence.

III. DISCUSSION

Defendant claims the trial court improperly denied his motion to suppress because Officer Reyes lacked defendant's consent to enter the trailer and had no reason to believe Jose M. had authority to consent to the officer's entry into the trailer. For the reasons explained below, we reject these contentions, and affirm the judgment.

A. *Search and Seizure Generally and Standard of Review*

When reviewing a ruling on a motion to suppress, the reviewing court defers “to the trial court’s factual findings, express or implied, where supported by substantial evidence.” (*People v. Glaser* (1995) 11 Cal.4th 354, 362.) “[A]ll factual conflicts must be resolved in the manner most favorable to the [superior] court’s disposition on the [suppression] motion.” (*People v. Martin* (1973) 9 Cal.3d 687, 692.) However, we “consider only the evidence that was presented to the trial court at the time it ruled” on the motion. (*In re Arturo D.* (2002) 27 Cal.4th 60, 77, fn. 18.) We then exercise our independent judgment to determine whether the search or seizure was reasonable under the Fourth Amendment. (*People v. Glaser, supra*, at p. 362.)

“It is a “basic principle of Fourth Amendment law” that searches and seizures inside a home without a warrant are presumptively unreasonable.” (*People v. Thompson* (2006) 38 Cal.4th 811, 817, quoting *Payton v. New York* (1980) 445 U.S. 573, 586.)

When police conduct a search or seizure without a warrant, the prosecution has the

burden of showing the officers' actions were justified by an exception to the warrant requirement. (*People v. Redd* (2010) 48 Cal.4th 691, 719; *People v. Camacho* (2000) 23 Cal.4th 824, 830; *People v. Chavez* (2008) 161 Cal.App.4th 1493, 1499.)

One way the prosecution may meet this burden is by showing that police obtained "permission to search . . . from a third party who possessed common authority over or other sufficient relationship to the premises or effects sought to be inspected." (*United States v. Matlock* (1974) 415 U.S. 164, 171.) Common authority to consent to a search "does not rest upon the law of property." (*Id.* at p. 171, fn. 7.) Instead, it is held "by persons generally having joint access or control for most purposes, so that it is reasonable to recognize that any of the co-inhabitants has the right to permit the inspection in his own right and that the others have assumed the risk that one of their number might permit the common area to be searched." (*Ibid.*) This common authority exception "stands for the proposition that the reasonableness of such a search is in significant part a function of commonly held understanding about the authority that co-inhabitants may exercise in ways that affect each other's interests." (*Georgia v. Randolph* (2006) 547 U.S. 103, 111.)

Valid consent may be given by (1) the person whose property or place is searched, (2) a third party who possesses common authority over that property or place, or (3) a third party who the police reasonably believe has such common authority. (*People v. Superior Court (Walker)* (2006) 143 Cal.App.4th 1183, 1198-1199.) Thus "where the facts available to the officer at the time of the search would lead a reasonable person to believe 'that the consenting party had authority over the premises [or property]'

[citation], the search is valid even if it ultimately turns out that no actual authority to consent existed.” (*Id.* at p. 1205; see also *People v. Jenkins* (2000) 22 Cal.4th 900, 971-972; *People v. Ledesma* (2006) 39 Cal.4th 641, 703.) This does not mean an officer can blindly rely on any invitation or representation of authority. “As with other factual determinations bearing upon search and seizure, determination of consent to enter must ‘be judged against an objective standard: would the facts available to the officer at the moment . . . “warrant a man of reasonable caution in the belief” that the consenting party had authority over the premises?’” (*Illinois v. Rodriguez* (1990) 497 U.S. 177, 188, quoting *Terry v. Ohio* (1968) 392 U.S. 1, 21-22.)

B. Officer Reyes Could Have Reasonably Concluded Jose M. Had Apparent Authority to Consent to the Search

Based on the facts presented at the hearing on the suppression motion, we conclude that Officer Reyes reasonably relied upon Jose M.’s apparent authority to enter the trailer. Angelica G. told Officer Reyes that she was the owner of the trailer and had agreed that Jose M. could move into it. Jose M. told Officer Reyes that he had agreed with Angelica G. that he would move into the trailer and had moved some of his things into it. He also told the officer that he had receipts for the property in the trailer. Both Angelica G. and Jose M. told Officer Reyes that Jose M. was only at the premises to retrieve his property and that defendant was refusing to permit him to do so. Although

the defendant gave Officer Reyes the address of the trailer as his address, there was no evidence introduced as to what interest, if any, defendant had in the trailer.⁴

Given the totality of the information available to Officer Reyes at the time, we conclude that he could reasonably believe that Jose M. was authorized to give consent to enter the trailer and retrieve his belongings.

C. Any Error Was Harmless

However, even if the trial court erred, that is not sufficient on its own to reverse defendant's conviction. Such an error would be subject to a federal harmless error standard, which requires "the beneficiary of a constitutional error to prove beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained." (*Chapman v. California* (1967) 386 U.S. 18, 24.) "“To say that an error did not contribute to the ensuing verdict is . . . to find that error unimportant in relation to everything else the jury considered on the issue in question, as revealed in the record.”” (*People v. Pearson* (2013) 56 Cal.4th 393, 463, quoting *Yates v. Evatt* (1991) 500 U.S. 391, 403.)

⁴ We recognize that had it been established at the suppression hearing that defendant was a sole tenant, Angelica G. could not give consent to enter the property. (See *People v. Superior Court (Walker)*, *supra*, 143 Cal.App.4th at p. 1200 [“the owners of property may consent to a police search thereof as long as no other persons are legitimately occupying that property. . . . [¶] But a landlord may not give valid third party consent to a police search of a house rented to another.”].)

The People have met their burden to show that the error was harmless beyond a reasonable doubt. At trial, neither the baseball bat's existence nor its use in the alleged crime were at issue. Defendant himself testified that he used a baseball bat to hit Jose M. No party claimed that this bat did not exist, that defendant did not own it, or that defendant did not use it. Nor did either party raise any issues concerning the particular characteristics of the baseball bat. The bat itself was never the subject of serious concern for either party. The picture of the bat, and Officer Reyes's testimony regarding finding the bat, was unimportant in the grand scheme of the trial.

Nevertheless, defendant argues that but for the introduction of the picture of the baseball bat he would not have needed to testify. According to this argument, defendant could have rested after the prosecution's case, and argued that the prosecution did not meet its burden concerning the weapon element of the crime. Defendant's argument implies that without his admission to owning and using the bat, the prosecution might not have had sufficient evidence to obtain a conviction.

We reject this theory for two reasons. First, even if defendant did not testify regarding his use or ownership of a bat, there was still ample evidence to convict him. Jose M. testified that defendant used a bat to hit him, and Officer Reyes testified to seeing Jose M.'s injuries. Unless the testimony is physically impossible or inherently improbable, testimony of a single witness is sufficient to support a conviction. (Evid. Code, § 411; *People v. Young* (2005) 34 Cal.4th 1149, 1181, citing *People v. Allen*

(1985) 165 Cal.App.3d 616, 623.) The prosecution also admitted pictures of these injuries. The defense offered no evidence to contradict Jose M.'s claims, nor did it introduce evidence that Jose M.'s injuries could have been caused in some other way. Defendant's decision not to testify would not have changed these facts nor called into serious question whether defendant used a bat to hit Jose M.

Second, defendant's entire case at trial was predicated on a self-defense theory, and the jury was so instructed. In order to prevail using a self-defense theory, the defendant must show he believed he was in imminent danger and that the immediate use of force was necessary to defend against that danger. (CALCRIM No. 3470.) Therefore, defendant's own subjective assessment of the situation was critical to his defense. Defendant's testimony as to his understanding of events and his subjective beliefs were central to his theory of the case. Given this, it is entirely speculative to suggest that defendant would not have testified absent Officer Reyes's testimony about and picture of the bat.

Therefore, we conclude beyond a reasonable doubt that any error did not contribute to the final verdict. (See *People v. Jasmin* (2008) 167 Cal.App.4th 98, 114 ["[I]n light of the overwhelming evidence presented at trial, . . . we are confident beyond a reasonable doubt that any error in admitting the challenged evidence did not contribute to the verdict obtained, and was therefore harmless."].)

IV. DISPOSITION

The judgment is affirmed.

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FIELDS
J.

We concur:

RAMIREZ
P. J.

CODRINGTON
J.